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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

DANIEL S. KING,

Plaintiff,

vs.

CITY OF HENDERSON,

Defendant.

Case No.: 2:19-cv-01129-JAD-BNW

**STIPULATION AND ORDER TO  
EXTEND DISCOVERY**

**(Third Request)**

Plaintiff DANIEL S. KING and Defendant CITY OF HENDERSON, by and through their counsel of record, hereby STIPULATE AND AGREE that the current discovery cutoff date of **September 10, 2020**, be continued for a period of ninety (90) days up to and including **December 9, 2020**. This is the third extension to the discovery period that has been requested in this matter. The original discovery period, as set forth in ECF No. 23, set the discovery cut-off at April 13, 2020.

**1. DISCOVERY COMPLETED TO DATE:**

Plaintiff DANIEL S. KING and Defendant CITY OF HENDERSON, each made their initial disclosures required under Fed. R. Civ. P. 26(a)(1)(A), on December 16, 2019, in accordance with the Stipulated Discovery Plan and Scheduling Order (ECF No. 23):

1. Plaintiff served his First Supplement to Plaintiff's Initial Disclosures on January 17,

1 2020. Plaintiff served his Second Supplement to Plaintiff's Initial Disclosures on May 8, 2020.  
2 Plaintiff served his Third Supplement to Plaintiff's Initial Disclosures on May 15, 2020. Plaintiff  
3 served his Fourth Supplement to Plaintiff's Initial Disclosures on August 4, 2020.

4 2. Defendant served "City of Henderson's First Supplement to Its Initial Disclosures"  
5 on March 10, 2020. Defendant served "City of Henderson's Second Supplement to Its Initial  
6 Disclosures" on March 18, 2020.

7 The parties entered into a Stipulated Protective Order (ECF No. 32), which was approved by  
8 this Court on March 3, 2020. An agreement on the terms of the Stipulated Protective Order was a  
9 prerequisite for full production of requested and relevant documentation in this case, as relevant  
10 material in this case would include the contents of public employee personnel files and internal  
11 affairs investigations of the City of Henderson Police Department.

12 Plaintiff propounded the following written discovery to Defendant:

13 1. "Plaintiff's First Set of Requests for Production of Documents," which were served  
14 by mail on January 17, 2020, and amended on January 18, 2020; Defendant served "City of  
15 Henderson's Response to Plaintiff's Amended First Set of Requests for Production of Documents"  
16 on March 10, 2020;

17 2. "Plaintiff's First Set of Interrogatories," which were served by mail on January 18,  
18 2020; Defendant served "City of Henderson's Response to Plaintiff's First Set of Interrogatories"  
19 on February 20, 2020;

20 3. "Plaintiff's First Set of Requests for Admissions," which were served by mail on  
21 April 3, 2020; Defendant served "City of Henderson's Response to Plaintiff's First Set of Requests  
22 for Admissions" on April 30, 2020;

23 4. "Plaintiff's Second Set of Requests for Production of Documents," which were served  
24 by mail on April 3, 2020; Defendant served "City of Henderson's Response to Plaintiff's Second  
25 Set of Requests for Production of Documents" on April 30, 2020; and

26 5. "Plaintiff's Third Set of Requests for Production of Documents," which were served  
27 by mail on April 20, 2020; Defendant served "City of Henderson's Response to Plaintiff's Second  
28 Set of Requests for Production of Documents" on May 20, 2020.

1 Defendant propounded the following written discovery to Plaintiff:

2 1. “Defendant City of Henderson’s First Set of Requests for Production of Documents  
3 to Plaintiff Daniel S. King,” which were served by mail on February 26, 2020; Plaintiff served  
4 “Objections and Responses to Defendant City of Henderson’s First Set of Requests for Production  
5 of Documents to Plaintiff Daniel S. King” on May 8, 2020, and, subsequently, “Amended Objections  
6 and Responses to Defendant City of Henderson’s First Set of Requests for Production of Documents  
7 to Plaintiff Daniel S. King” on May 15, 2020; and

8 2. “Defendant City of Henderson’s First Set of Interrogatories to Plaintiff Daniel S.  
9 King,” which also were served by mail on February 26, 2020; Plaintiff served “Objections to  
10 Defendant City of Henderson’s First Set of Interrogatories to Plaintiff Daniel S. King,” on May 8,  
11 2020, and “Objections and Responses to Defendant City of Henderson’s First Set of Interrogatories  
12 to Plaintiff Daniel S. King,” on May 15, 2020.

13 3. “Defendant City of Henderson’s Second Set of Interrogatories to Plaintiff Daniel S.  
14 King,” which were served on August 10, 2020. Plaintiff’s objections and responses are not yet due.

15 4. On August 6, 2020, Defendant provided notice to Plaintiff of its intent to serve  
16 subpoenae duces tecum on the custodians of records for the following health care providers: (1)  
17 Keith G. Boman, M.D., of Davita Medical Group/Wellhealth Quality Care; (2) Abraham Fakhouri,  
18 M.D., of Nevada Family Care & Wellness Center; (3) Prem K. Kittusamy, M.D.; and (4) Kelly  
19 Rowe, F.N.P., of Nevada Family Care & Wellness Center. On August 10, 2020, the notice was  
20 amended and an additional subpoena duces tecum was added to the custodian of records for the  
21 following health care provider: Cres Miranda, M.D. These third-party subpoenae were issued for  
22 the purpose of obtaining medical records of Plaintiff related to the pending matter. Defendant set  
23 the response date for each subpoena duces tecum as August 26, 2020.

24 **2. DISCOVERY YET TO BE COMPLETED:**

25 Plaintiff intends to take the following depositions:

- 26 1. David Burns;  
27 2. Joe Cabanban;  
28 3. Michael Denning;

1           4.     Wendy Medura Krincek, Esq.; and

2           5.     Latesha Watson;

3           Names made be added to, or omitted from, this list, based on depositions taken and the  
4 review of the document production.

5           Defendant intends to take the deposition of Plaintiff Daniel S. King and may schedule other  
6 depositions following a review of Plaintiff's responses received to its discovery requests.

7     **3.     REASONS WHY REMAINING DISCOVERY HAS NOT YET BEEN COMPLETED:**

8           The parties got a late start on the discovery process due Plaintiff initially filing his complaint  
9 pro se. The stipulated discovery plan was filed six weeks into the originally-requested 180-day  
10 discovery period. Only four months remained of the original discovery period by the time the parties  
11 made their respective initial disclosures. While the parties understood that a 180-day likely would  
12 be insufficient because of the large number of potential witnesses to be deposed, the parties decided  
13 to opt for the standard 180-day discovery period at the onset and to request additional time based on  
14 what has transpired.

15           Discovery has not been completed due to a number of issues that have arisen:

16           1.     The limited shutdown of operations due to the COVID-19 coronavirus, which has  
17 affected law firms, governmental agencies, and the courts, has slowed down the discovery process  
18 in this case. Work has proceeded on this case throughout the shutdown period, but it has proceeded  
19 much more slowly than it would have during ordinary times.

20           2.     Defendant filed "Defendant City of Henderson's Motion to Dismiss, or in the  
21 Alternative, for a Stay Pending Arbitration" (ECF No. 9) on October 14, 2019. In response, Plaintiff  
22 filed not only an opposition (ECF No. 17), but also "Plaintiff's Countermotion for Leave of Court  
23 to File First Amended Complaint" (ECF No. 18).

24           a.     Defendant withdrew its motion to compel arbitration aspect of "Defendant  
25 City of Henderson's Motion to Dismiss, or in the Alternative, for a Stay Pending Arbitration" (ECF  
26 No. 29).

27           b.     On July 2, 2020, United States Magistrate Judge Brenda N. Weksler issued  
28 her Report and Recommendations regarding the pending motion (ECF No. 36). In the Report and

1 Recommendations, it was recommended to the presiding United States District Court Judge that  
2 Plaintiff be allowed to proceed on his first claim for relief (unlawful skin color-based discrimination  
3 in violation of 42 U.S.C. § 2000e-2(a)) and his third claim for relief (unlawful skin color-based  
4 discrimination in violation of NRS 613.330(1)). It was further recommended that Plaintiff's second  
5 claim for relief (unlawful retaliation) be dismissed without prejudice with leave granted to amend.  
6 Finally, it was recommended that Plaintiff's counter-motion for leave to amend be denied, as the  
7 proposed fourth claim for relief under 42 U.S.C. § 1981 was futile.

8 c. On July 21, 2020, this Court entered its Order Adopting Report and  
9 Recommendations (ECF No. 37). The Court allowed Plaintiff until August 10, 2020, to file an  
10 amended complaint to correct any deficiencies related to the second claim for relief, for unlawful  
11 retaliation.

12 d. On August 10, 2020, Plaintiff filed his Second Amended Complaint (ECF No.  
13 38).

14 e. Defendant's response to Plaintiff's Second Amended Complaint is due on  
15 August 20, 2020.

16 f. The additional time requested will allow the parties to conduct discovery on  
17 matters newly asserted in the Second Amended Complaint and Defendant's response thereto.

18 3. A large number of individuals with knowledge of the material allegations in the  
19 complaint were identified by Plaintiff pursuant to Fed. R. Civ. P. 26(a)(1)(A). Once Defendant files  
20 its answer and identifies its defenses, and once written responses to the discovery requests made  
21 under Fed. R. Civ. P. 34 are made, the number of individuals who may need to be deposed may  
22 expand beyond that set forth above.

23 4. Plaintiff has had very limited availability during the last two months, both because  
24 of increased work demands and because of his continuing to obtain a promotion to sergeant. Testing  
25 and interviews for the promotion were set for the month of August and the first few day of  
26 September 2020.

27 5. The parties were involved in extensive discussions to resolve discovery disputes over  
28 responses to written discovery. It appears at the present time that the matters have been resolved or

soon will be resolved without the need for motions to be filed, although that is subject to change.

**4. REVISED DISCOVERY PLAN:**

1. Discovery Cut-Off Date: **December 9, 2020.**

2. Dispositive Motions: The date for filing dispositive motions shall be not later than **February 8, 2021**. This date is 60 days after the new discovery cut-off date. This additional time is to place the deadline past the holiday period.

3. In the event that the discovery period is extended from the discovery cut-off date set forth in this Stipulation and Order to Extend Discovery (Third Request), the date for filing dispositive motions shall be extended for the same duration, to be not later than 30 days from the subsequent discovery cut-off date.

4. Pretrial Order: The date for filing the joint pretrial order shall be not later than **March 10, 2021**, 30 days after the date set for filing dispositive motions. In the event that dispositive motions are filed, the date for filing the joint pretrial order shall be suspended until 30 days after decision on the dispositive motions or until further order of the court.

5. Additional Extensions of the Discovery Period: The last day for the parties to file their Motion and/or Stipulation to Extend Discovery shall be **November 18, 2020**, 21 days prior to the revised discovery cut-off.

6. Any discovery deadline not extended in accordance with the Revised Discovery Plan set forth above shall remain controlled by the Stipulated Discovery Plan and Scheduling Order (ECF No. 23), as approved by the Court on December 3, 2019.

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1 No trial date has yet been ordered.

2  
3 DATED: August 19, 2020.

DATED: August 19, 2020.

4 LAW OFFICES OF ROBERT P. SPRETNAK

CITY OF HENDERSON

5 By: /s/ Robert P. Spretnak  
Robert P. Spretnak, Esq.

By: /s/ Brian R. Reeve  
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6 Attorney for Plaintiff

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12 IT IS SO ORDERED

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14 DATED: 5:56 pm, August 20, 2020

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17 BRENDA WEKSLER  
18 UNITED STATES MAGISTRATE JUDGE